IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 303 of 2001
(Old No. 3259/2000)

Rajan Kalsi S/o Shri Harbans Lal Kalsi
R/o E-266 Ramesh Nagar
P.S. Kirti Nagar
New Delhi – 110 015 & 4 others ... Applicants

Vs.

State of U.P. & another ...Opp. Party

Hon'ble B.C. Kandpal, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the proceeding in Criminal Case No. 437 of 1996 Monika Kalsi Vs Rajan Kalsi & others under Section 406 I.P.C. pending in the court of 3rd Additional Chief Judicial Magistrate, Dehradun.

2. The respondent No.2 – Monika Kalsi is represented by Sri I.P. Kohli who is present before the Court.

3. Heard Sri Lokendra Dobhal, learned counsel for the petitioner, Sri I.P. Kohli, learned counsel for the respondent No. 2 as well as learned A.G.A. and perused the record.

4. Counsel for both the parties have submitted before the Court that since it is matrimonial disputes both the parties have entered into compromise.

5. An affidavit has been filed before this Court today annexing the copy of the compromise filed by the parties before the Court below in Civil Appeal No. 71 of 1999. The certified copy of the compromise deed on the basis of which the decree for divorce has been passed, has also been filed by the parties.

6. Perusal of the compromise deed shows that the parties have agreed to this aspect that all the proceedings pending against each other in all the courts, Civil, Criminal and High Court etc. shall be withdrawn by the respective parties.

7. Paragraph No. 4 of the compromise deed provides that both the parties have settled all their claims against each other with regard to maintenance, Stridhan etc and both of them are not left with any claim of whatsoever nature against each other.

8. Keeping in view the aforesaid facts and circumstances, I think, that there is no justification for continuing the criminal proceedings.

9. Accordingly, in view of the compromise arrived at between the parties as well as in the light of the direction issued by Hon'ble Supreme Court reported in ***2003 SCC (Criminal) page 848 B.S. Joshi and others Vs. State of Haryana & another*** wherein it is observed:-

> *"There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from*

settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code."

In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code."

10. I am, therefore, of the view that the petition filed under Section 482 Cr.P.C. should be disposed of in the light of the aforesaid decision.

11. The petition under Section 482 Cr.P.C. is disposed of in terms of the compromise arrived at between the parties.

12. The criminal proceeding in Criminal Case No. 437 Monika Kalsi Vs Rajan Kalsi & others under Section 406 I.P.C. pending in the court of 3rd Additional Chief Judicial Magistrate, Dehradun is hereby quashed.

(B.C. Kandpal, J.)

05.07.2006
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